(5)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 937/2004

PETITIONER : Ramlal Sahu, S/o Shri Nanki Ram Sahu, aged about 39 years, Panchayat Karmi/Sachiv, Gram Panchayat Barielly, R/o Barielly, Tahsil/Janpad Panchayat, Kasdol, Vikash Khand Kasdol, Distt. Raipur Chhattisgarh.

VERSUS

RESPONDENTS :

1. State of Chhattisgarh, Through Secretary Department of Panchayat & Rural Development, D.K.S. Building Raipur (C.G.).
2. Joint Director, Panchayat Avam Samaj Kalyan, Raipur (C.G.).
3. Sub Divisional Officer, Baloda Bazar, Tahsil Baloda Bazar, Distt. Raipur (C.G.).
4. Sub Divisional Officer, Bhilaigarh, Tahsil Bhilaigrh, Distt. Raipur (C.G.).
5. Chief Executive Officer, Janpad Panchayat, Kasdol, Tahsil Kasdol, District Raipur (C.G.).
6. Sarpanch Gram Panchayat Bariely, Vikash Khand Kasdol, District Raipur (C.G.).
7. Up-Sarpanch, Punee Ram Sahu, Gram Panchayat Barielly, Distt. Raipur (C.G.).

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WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

(10)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक .....WP.NO..937/04..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	12-5-2005 On a mention being made, the case is taken up for hearing. Shri Bhaskar Pyasi, counsel for the petitioner. Shri Akhil Agrawal, Panel Lawyer for the State/respondents No.1 to 4. Shri C.R. Sahu, counsel for respondents No.6 and 7. None present on behalf of respondent No.5 in spite of service. No return has been filed on behalf of respondents. As agreed to by learned counsel for the parties, the matter is being disposed of finally. The case of the petitioner is that the petitioner was appointed as Panchayat Karmi in the year 1994 and he was working as Panchayat Karmi (Secretary) at Gram Panchayat, Barielly, Vikas Khand Kasdol from the year 1994-95. Respodnent No.5 received a complaint from respondent No.7. Respondent No.7 had filed the said complaint. Respondent No.5 sent a letter to respondent No.6 for getting information, but respondent No.6 convened a meeting of the Gram Sabha without giving show cause notice to the petitioner and resolution was passed on 3-2-2003 for removal of the petitioner from the post of Panchayat Karmi (Secretary). I have heard learned counsel for the parties.	

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XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

It is admitted position that being Panchayat Karmi services of the petitioner are governed by Panchayat Service (Discipline and Appeal) Rules, 1999 (hereinafter referred to as the Rules, 1999). Sub-rule (3) of Rule 1 of Part-I envisages that 'Except as otherwise provided by or under these rules, they apply to all persons employed in connection with the affairs of Zila Panchayats, Janpad Panchayats and the Gram Panchayats and discharging the functions of Zila Panchayat, Janpad Panchayat and Gram Panchayat.' Rule 5 of the Rules, 1999 prescribes penalties and sub-rule (b) of Rule 5 prescribes major penalties. Rule 7 prescribes procedure for imposing major penalties and according to which 'No order, imposing on a member of the Panchayat Service, any of the penalties specified in clause (iv) to (via) of rule 5 shall be passed except after a formal inquiry is held as far as may be, in the manner hereinafter provided.' Sub-rule (2) envisages that 'When an order of formal inquiry has been made, the disciplinary authority shall frame Definite charges on the basis of allegations and shall communicate such charges, alongwith the statement of the allegations, to the member of the Panchayat Service and also require him to submit within such time as may be specified a written statement of defence and also to state whether he desires to be heard in person.' As per Sub-rule (4) the Panchayat Karmi will be allowed to file written statement of defence and the disciplinary

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

authority is required to nominate any person to present the case in support of the charges before the Enquiry Officer and if the Panchayat Karmi deserves to be heard, then he shall be heard and after enquiry, the Enquiry Officer is required to submit his report as per sub-rules (7), (8) and (9). As per sub-rule (10) the disciplinary authority is required to consider the representation made by the Panchayat Karmi and then to decide the penalty.

It is admitted position that in this case no enquiry was instituted and conducted against the petitioner under the Rules, 1999. He was simply removed from the post of Panchayat Karmi on the basis of the resolution passed by the Gram Sabha which is totally contrary to the above Rules, 1999, therefore, order of removal Annexure-P/1 is liable to be quashed on this score only.

In the result, the writ petition is allowed and the impugned order is quashed. However, respondents are not precluded from conducting fresh enquiry on the misconduct of the petitioner.

In view of this order, M.W.P. No. 844/2004 stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

Barve

13.5.05 19.5.05